IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 555 of 1991

For Approval and Signature: sd/-

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JAGDISHBHAI B PATEL

Versus

CHANDRAVADA B PATEL

Appearance:

1. Appeal from Order No. 555 of 1991

MR AJ PATEL for Petitioner No. 1

MR NILESH A PANDYA for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 30/10/2001

ORAL JUDGEMENT

1. The appellant - defendant has challenged in this Appeal the impugned order dated 19.12.1991 passed by the learned 4th Joint Civil Judge (SD), Vadodara below Ex.5 in Special Civil Suit No.261 of 1990 whereby the learned trial Judge allowed the Application Ex.5 filed by the respondent - plaintiff and granted ad.interim injunction in terms of Para : 12(1) of that Application Ex.5 till final disposal of the Suit. Along with this Appeal, initially Civil Application No.4160 of 1991 was filed for interim relief. The learned Single Judge of this Court

ordered to issue notice in both, Appeal from Order as well as in Civil Application, and in Civil Application the learned Single Judge granted ad.interim relief in terms para : 5(A) which was later on modified by the learned Single Judge to the extent that the order of status-quo to continue as on that date. Simultaneously, Appeal from Order was also admitted by the learned Single Judge on 3.3.1992.

2. It is stated at the Bar that after modifying the order of status-quo passed by the learned Single Judge on 3.3.1992, Civil Application No.1128 of 1993 was filed by the respondent - original plaintiff seeking clarification of the order of status-quo and the said Application was disposed of by another learned Single Judge of this Court with direction that the present Appellant also to maintain status-quo with respect to the suit property till the final disposal of the Suit. Thus, status-quo order passed on two separate Civil Applications continued till today whereby both, the appellant as well as the respondents, are directed to maintain status-quo with respect to the Suit property.

3. It is unfortunate that though this Appeal was entertained in 1991, it has come up for final disposal only after 10 years. The main Special Civil Suit No.261 is of 1990 and it must have become ripe for hearing. If this Appeal had come up for hearing immediately within the reasonable time from the date of admission then this Court would have definitely gone into the legality and validity of the impugned order passed by the trial Court below Ex.5, but now it would not be proper for this Court to go into the merits, legality and validity of the impugned order passed by the trial Court after a period of more than 10 years, more particularly when the interim order of status-quo is operating on Civil Applications till today.

4. Under the circumstances, I am of the considered opinion that the interest of justice will be served by directing the trial Court to dispose of the main Special Civil Suit No.261 of 1990 as early as possible and till then the parties be directed to maintain status-quo as ordered earlier.

5. Accordingly, this Appeal is disposed of without going into the merit, legality and validity of the impugned order passed by the trial Court with a direction to the trial Court to dispose of the main Special Civil Suit No.261 of 1990 as early as possible and not later than 31st December 2002, if the same is not decided so

far. The parties shall fully cooperate with the final disposal of the Suit and till then the status-quo order granted earlier on the aforesaid two Civil Applications shall continue.

Civil Applications filed in this Appeal from Order will not survive in terms of the order passed in the main Appeal from order. Accordingly, the Civil Applications are disposed of, if they are not disposed of till today.

sd/-

Date : October 30, 2001 (B.J.Shethna, J.)

sas